

MCKOOL SMITH, P.C.
Robin L. Cohen (NJ Attorney ID No. 030501986)
Adam S. Ziffer (*admitted pro hac vice*)
Marc T. Ladd (*admitted pro hac vice*)
One Bryant Park, 47th Floor
New York, NY 10036
Tel: (212) 402-9400
*Attorneys for Plaintiff Pharmacia Corporation
n/k/a Pfizer Inc.*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

PHARMACIA CORPORATION N/K/A
PFIZER INC.,
Plaintiff,

v.

ARCH SPECIALTY INSURANCE
COMPANY, TWIN CITY FIRE
INSURANCE COMPANY, and LIBERTY
MUTUAL INSURANCE COMPANY,

Defendants.

Civil Action No. 2:18-cv-00510-
ES-MAH

**DECLARATION OF ROBIN L.
COHEN IN SUPPORT OF
PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT**

I, Robin L. Cohen, state as follows:

1. I am a principal with the law firm of McKool Smith, P.C., counsel for Plaintiff Pharmacia Corporation (“Pharmacia”) n/k/a Pfizer Inc. I am a member of the Bar of the United States District Court for the District of New Jersey.
2. I am personally familiar with the facts set forth herein. I make this certification in support of Pharmacia’s Motion for Summary Judgment against

Defendants Arch Specialty Insurance Company (“Arch”) and Twin City Fire Insurance Company (“Twin City”), contemporaneously filed herewith.

3. Attached hereto as Exhibit 1 is a true and correct copy of Pharmacia’s Form 10-K405 for the fiscal year ended December 31, 2001, as produced in this litigation by Arch, bearing bates numbers ARC14751-72.

4. Attached hereto as Exhibit 2 is a true and correct copy of a slideshow presentation given by Aon Northeast Risk Services to Pharmacia’s insurers, as produced in this litigation by Arch, bearing bates numbers ARC14691-725.

5. Attached hereto as Exhibit 3 is a true and correct copy of a slideshow presentation, as produced in this litigation by Arch, bearing bates numbers ARC15102-119.

6. Attached hereto as Exhibit 4 is a true and correct copy of a file used by Arch in the underwriting of the insurance policy it issued to Pharmacia, as produced in this litigation by Arch, bearing bates numbers ARC15318-15390.

7. Attached hereto as Exhibit 5 are true and correct excerpts of the transcript of the deposition of Laura Fincke Coppola, conducted on January 17, 2019.

8. Attached hereto as Exhibit 6 are true and correct copies of applications completed by Pharmacia to renew its directors and officers insurance

policies for the 2002-2003 coverage year, bearing bates numbers PFIGARB33756-820.

9. Attached hereto as Exhibit 7 is a true and correct copy of an email from Cynthia A. Beveridge to Robert Cerutti, dated August 28, 2002, with attachments, bearing bates numbers PFIGARB33821-30.

10. Attached hereto as Exhibit 8 is a true and correct copy of the merger agreement between Pharmacia and Pfizer, Inc., dated July 13, 2002, bearing bates numbers PFIGARB29843-30019.

11. Attached hereto as Exhibit 9 is a true and correct copy of Pfizer's Form 8-K, dated April 16, 2003, bearing bates numbers PFIGARB22305-18.

12. Attached hereto as Exhibit 10 is a true and correct copy is the Final Judgment and Order of Dismissal with Prejudice filed on January 30, 2013 in the *Garber Action*, bearing bates numbers PFIGARB1991-2000.

13. Attached hereto as Exhibit 11 is a true and correct copy of a letter from Rachel S. Kronowitz to Ommid C. Farashahi dated June 9, 2015, with attached spreadsheet, bearing bates numbers PFIGARB3120-39.

14. Attached hereto as Exhibit 12 is a true and correct copy of a letter from John A. Whyte to Keith Zinsley, dated April 14, 2003, as produced in this litigation by Twin City, bearing bates numbers TC 423-24.

15. Attached hereto as Exhibit 13 is a true and correct copy of a letter from Michael L. Manire to Sanford Berland, dated September 22, 2006, bearing bates numbers PFIGARB35887-91.

16. Attached hereto as Exhibit 14 is a true and correct copy of an email from Richard D. Brew to various insurers' representatives, dated August 31, 2005, as produced in this action by Arch, bearing bates numbers ARC2-3.

17. Attached hereto as Exhibit 15 are true and correct copies of notes from Arch's claim file for the Garber claim, as produced in this action by Arch, bearing bates numbers ARC15450-95.

18. Attached hereto as Exhibit 16 is a true and correct copy of a Claim Summary Report ("CSR") completed by Patrick Maloney, dated October 10, 2011, as produced in this action by Twin City, bearing bates numbers TC1147-55.

19. Attached hereto as Exhibit 17 is a true and correct copy of a letter from Brent E. Pelton to R. Damian Brew, dated August 11, 2006, bearing bates numbers PFIGARB949-59.

20. Attached hereto as Exhibit 18 is a true and correct copy of the docket in *Leonard v. Pharmacia Corp., et al.*, No. 3:01-CV-04104 (D.N.J. filed Aug. 27, 2001), as found on the court's website.

21. Attached hereto as Exhibit 19 are true and correct excerpts of the transcript of the deposition of Steven L. White, conducted on January 23, 2019.

22. Attached hereto as Exhibit 20 is a true and correct copy of a letter from John C. Minett to John A. Whyte, dated May 2, 2003, as produced in this action by Twin City, bearing bates numbers TC416-20.

23. Attached hereto as Exhibit 21 are true and correct excerpts of the transcript of the deposition of Jeremy S. Salzman, conducted on January 18, 2019.

24. Attached hereto as Exhibit 22 is a true and correct copy of a letter from Patrick J. Maloney directed to the attention of Hunter Winstead, dated March 20, 2012, as produced in this action by Twin City, bearing bates numbers TC72-79.

25. Attached hereto as Exhibit 23 is a true and correct copy of a CSR completed by Patrick Maloney, dated February 7, 2011, as produced in this action by Twin City, bearing bates numbers TC80-87.

26. Attached hereto as Exhibit 24 is a true and correct copy of a CSR completed by Patrick Maloney, dated July 18, 2017, as produced in this action by Twin City, bearing bates numbers TC1119-31.

27. Attached hereto as Exhibit 25 is a true and correct copy of the transcript of the deposition of Patrick Maloney, conducted on January 4, 2019.

28. Attached hereto as Exhibit 26 is a true and correct copy of a slideshow presentation entitled “Garber Insurer Update” given by Pharmacia’s attorneys on October 3, 2011, as produced in this action by Arch, bearing bates numbers ARC7189-7270.

29. Attached hereto as Exhibit 27 is a true and correct copy of a CSR completed by Patrick Maloney, dated October 21, 2011, as produced in this action by Twin City, bearing bates numbers TC511-19.

30. Attached hereto as Exhibit 28 is a true and correct copy of an email from Patrick Maloney to Hunter Winstead, dated October 27, 2011, as produced in this action by Twin City, bearing bates numbers TC88-89.

31. Attached hereto as Exhibit 29 is a true and correct copy of a letter from Rachel S. Kronowitz to John F. McCarrick dated June 9, 2015, with attachments, bearing bates numbers PFIGARB1038-1178.

32. Attached hereto as Exhibit 30 is a true and correct copy of a letter from Rachel S. Kronowitz to Patrick Maloney dated June 9, 2015, with attachments, as produced in this action by Twin City, bearing bates numbers TC2784-2923.

33. Attached hereto as Exhibit 31 is a true and correct copy of an email from Patrick Maloney to Rachel S. Kronowitz, with attachment, dated July 5, 2017, as produced in this action by Twin City, bearing bates numbers TC3018-27.

34. Attached hereto as Exhibit 32 is a true and correct copy of a letter from John Licitra to Cynthia Beveridge, dated August 30, 2002, as produced in this action by Arch, bearing bates numbers ARC14538-41.

35. Attached hereto as Exhibit 33 is a true and correct copy of a portion of Twin City's claim file for the Garber Claim, as produced in this action by Twin City, bearing bates numbers TC1-5.

36. Attached hereto as Exhibit 34 is a true and correct copy of a settlement agreement between Pharmacia, National Union Fire Insurance Company of Pittsburgh, Pa. and their affiliates, dated March 2, 2011, bearing bates numbers PFIGARB13-21.

37. Attached hereto as Exhibit 35 is a true and correct copy of Defendant Twin City Fire Insurance Company's Responses to Plaintiff's First Set of Interrogatories, dated September 12, 2018.

38. Attached hereto as Exhibit 36 is a true and correct copy of a CSR completed by Patrick Maloney, dated October 19, 2015, as produced in this action by Twin City, bearing bates numbers TC617-29.

39. Attached hereto as Exhibit 37 is a true and correct copy of the transcript of the deposition of H. Scott Fritts, conducted on May 9, 2019.

40. Attached hereto as Exhibit 38 is a true and correct copy of the Expert Witness Report of H. Scott Fritts, dated April 18, 2019.

41. Attached hereto as Exhibit 39 is a true and correct copy of the Amended Class Action Complaint in *Cain v. Merck & Co., et al.*, No. 1:01-CV-03441 (E.D.N.Y. filed May 29, 2001), bearing bates numbers PFIGARB38-61.

42. Attached hereto as Exhibit 40 is a true and correct excerpt of the transcript of the deposition of Larry Goanos, conducted on May 3, 2019.

43. Attached hereto as Exhibit 41 is a true and correct copy of a Warning Letter sent by the Food and Drug Administration, dated February 1, 2001, bearing bates numbers PFIGARB22100-07.

44. Attached hereto as Exhibit 42 is a true and correct copy of a *Washington Post* article, entitled “Missing Data on Celebrex; Full Study Altered Picture of Drug,” dated August 5, 2001, bearing bates numbers PFIGARB9816-18.

45. Attached hereto as Exhibit 43 is a true and correct copy of a *Wall Street Journal* article, entitled “Study Raises Specter of Cardiac Risk of Users of Popular Arthritis Drugs,” dated August 22, 2001.

46. Attached hereto as Exhibit 44 is a true and correct copy of a *British Medical Journal* article, entitled “Are selective COX 2 inhibitors superior to traditional non steroidal anti-inflammatory drugs?” dated June 1, 2002, bearing bates numbers PFIGARB9759-60.

47. Attached hereto as Exhibit 45 are true and correct excerpts of the transcript of the deposition of Fred Hassan, conducted on February 27, 2019.

48. Attached hereto as Exhibit 46 is a true and correct copy of a FDA Talk Paper, entitled “Labeling Changes for Arthritis Drug Celebrex,” dated June 7, 2002, bearing bates numbers PFIGARB475-76.

49. Attached hereto as Exhibit 47 are true and correct excerpts of the transcript of the deposition of Christopher Coughlin, conducted on March 7, 2019.

50. Attached hereto as Exhibit 48 is a true and correct copy of an email from Mona M. Wahba to Stephen Cristo, dated May 22, 2001, bearing bates numbers PFIGARB24438-40.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements made by me are true and accurate to the best of my knowledge, information and belief.

MCKOOL SMITH, P.C.

Dated: New York, NY
June 28, 2019

By: s/ Robin L. Cohen
Robin L. Cohen (NJ Attorney ID No.
030501986)

Adam S. Ziffer (admitted *pro hac vice*)
Marc T. Ladd (admitted *pro hac vice*)
One Bryant Park, 47th Floor
New York, NY 10036
Tel: (212) 402-9400

*Attorneys for Plaintiff Pharmacia
Corporation n/k/a Pfizer Inc.*